ground of incriminating his principal, even though it is a corporation. *Gibbons* v. *Waterloo Bridge Co.*, 5 Price, 491; *U. S. Express Co.* v. *Henderson*, 69 Ia. 40. But compelling the production of incriminating documents may violate the Fifth Amendment. *Boyd* v. *United States*, 116 U. S. 616. See COOLEY, CONSTITUTIONAL LIMITATIONS, 7 ed., 431, note. Therefore, if the production of documents can be a corporate act, there seems to be no reason, in its nature, why the privilege against self-incrimination must not be extended to corporations. *Logan* v. *Pennsylvania R. Co.*, 132 Pa. St. 403; *Davies* v. *Lincoln Nat. Bank*, 4 N. Y. Supp. 373. See *In re Pacific Railway Commission*, 32 Fed. 241, 250, 261, 267. It is submitted that the United States has no greater inquisitorial power over a state corporation than over a natural person. See dissenting opinion of Brewer, J., in *Hale* v. *Henkel*, *supra*, at p. 86.

CONSTRUCTIVE TRUSTS — MISCONDUCT BY NON-FIDUCIARIES — OBLIGATION OF PURPORTED AGENT AS TO FRAUDULENTLY ACQUIRED PROPERTY. — The plaintiff, pretending to act in behalf of the defendant, who held a deed of land under invalid tax proceedings, fraudulently procured a conveyance to himself from X, the legal owner, and brought this action to settle the title. *Held*, that the plaintiff being constructive trustee for the defendant cannot assert the legal title against him. *Robertson* v. *Board of Commissioners*, 113 Pac. 413 (Kan.).

Since this proceeding is in equity the shortest ground for decision of the case would be that one who comes into equity must come with clean hands, but the court proceeded to impose a constructive trust in favor of the defendant. Clearly such a trust should be imposed wherever the defendant is equitably entitled to the land, as, for example, where a prior defective deed had been executed to him, thus avoiding further litigation. *Rollins* v. *Mitchell*, 52 Minn. 41. And where a person fraudulently intercepts a gift intended for another by promising to hand it over if it is left to him, equity will impose a trust in favor of the intended legatee. See 20 HARV. L. REV. 403. But in the main case the defendant has no claim legal or equitable to the land as against the original owner, since his claim rests on invalid tax proceedings, and hence no trust should be imposed in his behalf. *Rogers* v. *Simmons*, 55 Ill. 76. Since the *cestui* would be subject to all prior equities against the property, such a trust would be subject to rescission by the grantor for fraud, and therefore the defendant is not in the last analysis equitably entitled to the property.

CORPORATIONS — DISTINCTION BETWEEN CORPORATION AND ITS MEMBERS — DISREGARDING CORPORATE FICTION IN ENFORCING COMMODITIES CLAUSE. — The Commodities clause of the Hepburn Act provides that "it shall be unlawful for any railroad company to transport from any state . . . to any other state . . . any article . . . manufactured, mined or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest direct or indirect . . ." A bill was brought to enjoin the defendant from transporting coal of a corporation whose stock the defendant owned, the bill alleging that the coal company was a mere instrumentality of the defendant. *Held*, that the defendant can be enjoined. *United States* v. *Lehigh Valley R. Co.*, 31 Sup. Ct. Rep. 387.

In proceedings originally brought against the defendant the complaint merely alleged that the defendant owned stock in the coal company whose goods it was transporting. This was held not to violate the statute, the court interpreting the "interest direct or indirect," which a carrier was forbidden to have in the transported goods to mean only a legal or equitable interest. *United States* v. *Delaware & Hudson Co.*, 213 U. S. 366. In the present amended complaint it was further alleged that the defendant was merely using the coal company as an instrumentality to evade the law. It is within the jurisdiction of equity to

enjoin the unconscionable use of a legal right. *Clement* v. *Wheeler*, 25 N. H. 361. Thus where the corporate device is employed to do something which the shareholders could not do, courts may disregard the fiction that the corporation is an independent person, and enjoin the continuance of such action. *United States* v. *Milwaukee Refrigerator Transit Co.*, 142 Fed. 247; *Northern Securities Co.* v. *United States*, 193 U. S. 197. In the principal case, upon disregarding the corporate fiction of the coal company it appears that in substance the defendant is transporting its own goods.

CORPORATIONS — TORTS AND CRIMES — LIABILITY FOR SLANDER OF AGENT. — The plaintiff in his declaration alleged, in substance, that an agent of the defendant corporation, in the course of his business, slandered the plaintiff, but he did not allege that the defendant authorized the slander. *Held*, that the declaration discloses no cause of action. *Jackson* v. *Atlantic Coast Line R. Co.*, 69 S. E. 919 (Ga.).

There is a conflict of authority on the question whether any principal is liable for the slander of his agent, not authorized by him. See 23 HARV. L. REV. 304. And where the principal is a corporation, some cases deny its liability on the ground that it has not the capacity to commit this particular tort. See *Behre* v. *National Cash Register Co.*, 100 Ga. 213, 214. But, it is submitted, there is no sound reason why a corporation should not be held; and some authorities take this view. See *Empire Cream Separator Co.* v. *De Laval Dairy Supply Co.*, 75 N. J. L. 207.

ELECTIONS — CONSTITUTIONALITY OF COMMON PROVISIONS IN PRIMARY ELECTION ACTS. — A statute provided that unless the aggregate vote cast for all candidates for nomination on a party ballot for one office should equal twenty per cent of the vote cast by that party for governor at the last general election, such party should not have a party nominee for that office on the official ballot. *Held*, that the act is constitutional. *State ex rel. McGrael v. Phelps*, 128 N. W. 1041 (Wis.).

A statute provided that unless the aggregate vote cast for all candidates for a particular office at the primary should equal thirty per cent of the number of votes cast by that party for secretary of state at the last general election, no nomination should be made by that party for such office. *Held*, that the act is unconstitutional. *State ex rel. Dorval* v. *Hamilton*, 129 N. W. 916 (N. D.). See NOTES, p. 659.

ELECTIONS — ELECTION CONTEST — DISCONTINUANCE OF SUIT. — A statute provided that an election might be contested by any thirty voters who should file a petition in the Supreme Court. A petition signed by thirty-one voters was filed, but, before issue joined, two petitioners moved to discontinue the suit as to them. A motion to amend by adding other petitioners was denied, and the suit dismissed. *Held*, that the court lost jurisdiction of the cause by the withdrawal of the two petitioners, and the suit was properly dismissed. *Bright* v. *Fern*, 20 Haw. 325.

The result reached here is at variance with the few authorities that bear on the question involved. It is generally held that an election contest is not an adversary proceeding, but a matter in the outcome of which the public has an interest. *Minor* v. *Kidder*, 43 Cal. 229; *Coppock* v. *Bower*, 4 M. & W. 361. See MCCRARY, ELECTIONS, § 454. This view is most reasonable, as the statutory remedy has been held to supersede the common-law proceeding of *quo warranto*. *Parks* v. *State*, 100 Ala. 634; *Commonwealth* v. *Leech*, 44 Pa. St. 332. The right of the remaining petitioners to continue the contest is supported by two lines of reasoning. The first class of cases holds that jurisdiction of the cause attaches at the filing of the petition and is not ousted by the subsequent